

OFFICIAL ZONING ORDINANCE
FOR
DOWS TOWNSHIP, NORTH DAKOTA

The preparation of this document was financed in part by Cass County; and in part through a Comprehensive Planning Grant from the U.S. Department of Housing and Urban Development under the provisions of Section 701 of the Housing Act of 1954, as amended; and in part by FHWA funds through the North Dakota State Highway Department and the Minnesota Department of Transportation and administered by the Fargo-Moorhead Metropolitan Council of Governments.

PREAMBLE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR
 Dows TOWNSHIP.

The intent of which is to:

Promote the health, safety, morals, and general welfare of the township,
people and the orderly development of township lands;

Preserve and maintain agricultural lands for farm use;

Encourage non-farm growth to locate within existing communities or
community-service districts;

Promote a healthy and visually attractive environment;

Promote the development of utility corridors which utilize the least
productive agricultural land;

Regulate development in the flood plain areas so as to reduce flood
damages and protect stream flows;

Discourage development which exceeds the carrying capacity of the land,
air or water resources;

Discourage any development which places an excessive financial burden
on the township or county government.

THIS ORDINANCE IS HEREBY ADOPTED EFFECTIVE THIS _____ DAY OF _____,
1980.

 Dows Township Board President

 Dows Township Clerk

ARTICLE I

Introduction

- I. Authority: This ordinance is adopted under the authority granted in Chapter 58-03 of the North Dakota Code.
- II. Purpose: The purpose of this ordinance is to preserve the agricultural use of the land, promote the health, safety, morals, general welfare, and orderly development of Dows Township.
- III. Severability: If any provision or section of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.
- IV. Repeal: All other ordinances or parts of ordinances of Dows Township in conflict with this ordinance are hereby repealed.
- V. Title: This ordinance shall be known as "Zoning Ordinance of Dows Township".
- VI. Effective Date: This ordinance shall become effective after a public hearing adoption by the Dows Township Board of Supervisors.

ARTICLE II

General Provisions

- I. Jurisdiction: The jurisdiction of this ordinance shall include all unincorporated areas of Dows Township.
- II. Compliance: Except as hereinafter provided, no building, structure, or land shall be erected, repaired or used except in conformance with these regulations.
- III. Agriculture Exempted: Nothing in this ordinance shall be applied for the purpose of preventing or restricting the use of land or buildings for agriculture or any of the normal incidents of agriculture.
- IV. Interpretation: In the interpretation and application of this ordinance the provisions of this ordinance shall be held to the minimum requirements. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance shall govern.

V. Non-conforming Uses:

1. Lawful, non-conforming uses of land or buildings existing at the date of adoption of these regulations may continue provided no structural alterations except for normal maintenance are made and such non-conforming uses shall not be extended to occupy a greater area of land than occupied at the time of adoption.
2. No building or structure destroyed where a non-conforming use has been discontinued for a period of 1 year or has changed to a permitted use shall again be devoted to a non-conforming use.
3. A non-conforming structure destroyed or damaged less than 50 percent of its fair market value may be reconstructed within 1 year of such casualty. If damaged more than 50 percent of its fair market value, such building shall be reconstructed in conformance to these regulations.
4. The provisions of this section shall not be applicable to conditional uses or any use made non-conforming by a change in district regulations.

VI. Amendments: In accordance with Chapter 58-03, Section 58-03-13 of the North Dakota Century Code, the Board of Township Supervisors may from time to time amend the provisions of this ordinance. Such amendment shall not become effective until after a public hearing at which parties of interest and citizens shall have the opportunity to be heard. At least 15 days notice of the time and place shall be published in the official newspaper of the county. The description of any land within any zoning district, together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Board of Township Supervisors.

VII. Definitions: For the purpose of this ordinance, the following definitions have been adopted:

A. Rules:

1. Words used in the present shall include the future, the singular number shall include the plural.
2. The word person includes a firm, partnership, association, corporation or individual.
3. The word shall is mandatory.

B. List of Definitions:

1. Agriculture: The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall include farming, dairying, pasturage, horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating or storing produce, providing accessory uses are secondary to normal agriculture activities.
2. Accessory Use or Accessory Structure: A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.
3. Building: Any structure used for shelter or enclosure of persons, animals, or chattels.
4. Conditional Use: A use conditionally permitted in order to reduce any adverse effects on surrounding property.
5. Dwelling: A building or portion thereof occupied exclusively for residential purposes, but not including mobile recreational vehicles.
6. Dwelling, Farm: A single family dwelling or mobile home located on a farm which is occupied by the farm's owner or person employed thereon.
7. Dwelling, Non-farm: One and two-family dwellings and mobile homes located on a farm or otherwise of which the occupant does not derive at least 50 percent of his income from agricultural activities.
8. Family: A group of one or more persons occupying a single premise and living as a single housekeeping unit.
9. Farm: Any aggregate area operated by one person, family, partnership, corporation or joint venture for agriculture or farming purposes.
10. Feedlot: The use of land or buildings for the exclusive purpose of concentrated feeding or fattening of livestock for marketing. The application of feedlot regulations shall be limited to non-farm related enterprises.
11. Home Occupations: Any occupation carried on solely by the occupants of a residence provided: that no more than one room of a dwelling be used for such purpose; no use shall require internal or external alteration or construction; that anything not produced on the premises is sold; and no display of goods or services is visible from the street.

12. Junk Yard: Any land or building used for the storage, sale or dismantling of obsolete vehicles, junk and other machinery.
13. Lot: A parcel of land sufficient to provide the yard requirements of the regulations.
14. Mobile Home: A mobile home is a dwelling unit designed for transportation after construction. A recreational travel trailer is not to be considered a mobile home.
15. Non-Conforming Use: Any structure, land or building existing at time of adoption or amendment of this ordinance which does not conform to the provisions of the regulations.
16. Setback: The open space extending the full width of a lot between a building and the centerline of a public road or highway.
17. Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a building.
18. Variance: The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions of the property, strict application of the regulations would result in undue hardship.

ARTICLE III

District Regulations

- I. Establishment of District Regulations: For the purpose of these regulations, the entire area of Dows Township is zoned agricultural.
 - A. Zoning Map - The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map". which accompanies and is hereby made a part of the regulations.
 1. Location of District Boundaries
 - a) Where the district boundary lines on the Zoning District Map are indicated to follow highway, road, or railroad rights-of-way, such boundary lines shall be construed to be the centerline of said rights-of-way unless clearly shown to the contrary.

- b) Where any uncertainty exists as to the exact location on the Zoning District boundary line, the Zoning Board shall determine the location of such boundary lines.

II. Agricultural District:

- A. Purpose: To establish and preserve areas of agriculture and low intensity development which does not significantly change the existing character of the area.
- B. Permitted Uses: Agriculture and agricultural buildings, including farm dwellings, cemeteries, churches, existing railroad rights-of-way, home occupations, accessory uses to the permitted uses.
- C. Conditional Uses: The following conditional uses and their accessory uses are permitted subject to the stipulation of the zoning board. Non-farm dwellings, schools, sanitary disposal facilities including landfills, mining or gravel removal, feedlots, junk yards, radio or TV towers, utility lines and substations in accordance with the appropriate provisions of this ordinance, parks or other open land recreational uses.
- D. Dimensional Standards:
 1. Setbacks:
 - a. Structures - 150 feet.
 - b. Windbreaks - Conform to Soil Conservation Service specifications
- E. Special Regulations:

See Article IV.

ARTICLE IV

Special Provisions

- I. Utilities: Electric Power, Electrical Transmission Lines, Natural Gas Pipe Lines, Petroleum Products Pipe Lines.
 - A. New utilities, electric power lines, electric transmission lines, natural gas pipe lines, petroleum products pipe lines shall be considered as a conditional use, and as such shall conform to all requirements put upon them by the Township Zoning Board.

- B. The Township Zoning Board shall consider the submission provided for herein and, before authorizing the issuance of a permit, shall determine that the proposed utilities or lines do not interfere with: 1) the reasonable established future plans of adjoining townships; 2) the orderly development and safety of the township. If any modifications of said provisions appear necessary, such modifications shall be noted as a limitation on the zoning permit.
 - C. Electrical power transmission lines shall be located along section lines, quarter lines or along any line parallel to the above mentioned lines unless otherwise authorized by the Township Board.
 - D. All pipelines, natural gas, petroleum lines, etc., shall be placed deep enough as not to constitute a hazard to normal farming operations.
 - E. Excavations for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and cost of said excavation to be borne by said company.
- II. Sanitary Regulations: All residential, business or industrial structures shall conform to the North Dakota health regulations and/or Cass County sanitation regulations as they refer to wells, irrigation and septic systems.
- III. Surface Excavation: Before a conditional use permit may be issued for any surface excavation or mining operation, a road maintenance settlement shall be negotiated with the Township Zoning Board specifying at a minimum that any existing roads be left in the condition which they were found, and that the cost of road maintenance be borne by whoever is to benefit from the excavation or mining .
- IV. Residential Development: The following regulations shall be applied to the construction of non-farm dwelling units:
- A. Density:

There shall be no more than one non-farm dwelling unit per quarter section permitted.
 - B. Dimensional Standards:
 1. Setback - 150 feet
 2. Lot Size - 3 acres
 3. Lot Width - 100 feet
 4. Side Yard - 25 feet
 5. Height - 35 feet

ARTICLE V

Administration and Enforcement

- I. Zoning Administrator: The Zoning Administrator shall be appointed by the Zoning Board. Duties of the Zoning Administrator shall include:

- A. Issuance of all permits;
 - B. Conduct inspection of buildings;
 - C. Maintain records of the regulations and permits;
 - D. Transmit to the Zoning Board all applications for appeals, variances, or conditional use permits and all applications for amendments to the Board of Township Supervisors.
- II. Township Zoning Board: Membership for the Board shall consist of the Board of Township Supervisors. Duties of the Board shall include:
- 1. Establishment of rules, regulations and procedures for the purpose of administering the zoning ordinance.
 - 2. Assist the Zoning Administration in conducting inspection of buildings and administering the zoning ordinance.
 - 3. Hear and decide appeals where it is adjudged by the applicant that an error in judgement has been made by the Zoning Administrator.
 - 4. Review and study from time to time the provisions of the regulations.
- A. Appeals: Any person aggrieved by the provisions of these regulations or by any order of determination of the Zoning Administrator may within 60 days of such action, petition for a hearing to the Township Zoning Board. Such appeal shall be in writing and shall specify in detail the grounds for the appeal.
- 1. Procedure:
 - a. Appeals shall be filed with the Zoning Administrator.
 - b. Within 30 days of filing, the Township Zoning Board shall fix a date for a hearing.
 - c. Notice in writing shall be given to the petitioner at least 5 days prior to the hearing.
 - d. Within 15 days after the hearing, the Township Zoning Board shall take action and shall mail by registered mail a copy of its order to the petitioner.
- B. Variances: As used in this ordinance, a variance is authorized only for height, area, or size of structures or yards. Establishment or expansion of a use otherwise prohibited shall not be allowed by a variance or shall a variance be granted because of the presence of non-conformities in a zoning district. No variance shall be authorized unless the Township Zoning Board finds beyond a reasonable doubt that all of the following conditions exist.

1. That there are exceptional or extra-ordinary circumstances applying to the property in question or to the intended use of the property that do not apply generally to other properties or class or use in the same zoning district.
2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the regulations or the public interest.
4. The owner cannot otherwise obtain a reasonable return on this property.
5. The hardship is not self-created.
6. The variance request is the minimum necessary to permit a reasonable use of the land.

C. Conditional Uses: No permit pertaining to the conditional use of land or buildings shall be issued unless:

1. An application for a conditional use permit has been submitted to the Township Zoning Board for review and recommendation to the Township Board of Supervisors.
2. The Board has notified adjacent landowners and/or tenants and considered their comments.
3. The Board has made written findings certifying compliance with rules governing conditional uses and that, where applicable, satisfactory provision for the following has been made.
 - a. Entrance and exit to property with reference to public safety, traffic flow and convenience.
 - b. Parking and loading requirements of the specific use.
 - c. General compatibility with the surrounding property with due consideration for noise, odor or other adverse effects.
 - d. Required open space and yards.
 - e. Any other applicable circumstances that may need further attention.

per quarte

non-farm

III. Permits: No structure or land used for residential, commercial, or industrial purposes including accessories thereto, shall hereafter be built, altered or moved until a permit has been obtained from the Zoning Administrator. No permit shall be required for maintenance or repairs of any building which does not alter the plan of the structure.

IV. Violations of Regulations: Remedies for violation of these regulations may be instituted by the Board of Township Supervisors in accordance with Section 58-03-14 of the North Dakota Century Code.

V. Fees: For the purpose of administrating this ordinance, fees may be instituted by the Board of Township Supervisors.